

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

United States of America,

Plaintiff,

v.

Case No. 2:08-cv-638

James H. Banks, et al.,

Defendants.

ORDER

The parties have filed a joint motion to stay this action pending the resolution of an ongoing criminal investigation involving the issues in this case.

Although a court is not required to issue a stay of civil proceedings pending the outcome of parallel criminal prosecutions, a district court, at its discretion, may issue such a stay, particularly where the potential for prejudice is shown. See United States v. Certain Relat Property 566 Hendrickson Blvd., Clawson, Oakland Cty, Mich., 986 F.2d 990, 997; Eastwood v. United States, No. 2:06-cv-164 (unreported), 2008 WL 444661 at *2 (E.D.Tenn. Feb. 15, 2008); see also Landis v. North American Co., 299 U.S. 248, 254 (1936) ("[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.").

The parties state in their motion that the same facts which underlie the government's tax claims against the defendants in this case are the subject of an ongoing criminal investigation in the Southern District of Ohio. The parties further state that proceeding with this action may compromise the pending criminal

investigation, and that deposition discovery and the defendants' ability to testify at trial may be frustrated if the defendants assert their Fifth Amendment rights.

The court finds that good cause has been shown for staying further proceedings in the instant case pending the resolution of the criminal investigation. The motion to stay this case is granted, and further proceedings in this case are hereby stayed until further order of the court. The parties shall submit reports to the court at least every six months concerning the status of the criminal investigation, either in writing, or by requesting a status conference with the magistrate judge assigned to the case.

Date: November 7, 2008

s\James L. Graham
James L. Graham
United States District Judge